



THE GOVERNOR'S CITIZEN'S TRAFFIC STOP ADVISORY BOARD

MARCH 26, 2010

**STATE CAPITOL EXECUTIVE TOWER
3RD FLOOR, PHARMACY BOARD ROOM
1700 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007**

Members Present: Mr. Jean-Jacques Cabou, The Honorable Coral Evans, Dr. Luis Fernandez, Mr. Mel Hannah, Mr. Carl Landrum and Mr. Andrew Luck

Absent: Marshal David Gonzales, Dr. Zoe Hammer Tomizuka and Mr. Jesus Rodriguez

Staff: Ms. Linda Stiles, Governor's Office of Boards and Commissions, Mr. John Raeder, Governor's Office of Boards and Commissions

Guests: Ms. Anni Foster, Arizona Attorney General's Office (AG), Lieutenant Colonel (LTC) Jack Hegarty, Department of Public Safety (DPS), Ms. Annie Lai, American Civil Liberties Union (ACLU)

REGULAR BUSINESS

1. CALL TO ORDER

Chairman Hannah called the meeting to order at approximately 2:09 p.m.

2. APPROVAL OF MINUTES

Mr. Cabou moved that the Governor's Citizen's Traffic Stop Advisory Board approve the minutes of the board meeting held on June 24, 2009. Mr. Landrum seconded motion. The motion carried unanimously.

Mr. Cabou asked that staff review the attendance record for the June 24, 2009 meeting.

GENERAL BUSINESS

3. INTRODUCTION OF NEW MEMBERS

Members of the Board, staff and visitors introduced themselves.

4. HISTORY OF THE BOARD

Ms. Stiles and Mr. Raeder gave a staff presentation on the creation of the board, previous subcommittees, and previous board recommendations to the Governor and to the Director of DPS. The Recommendations where:

- An outside entity, such as the Civil Rights Section of the Attorney Generals Office, conduct an independent review or survey of the sustained allegations of racial profiling.

- A statement of concern regarding the collection of data and the DPS system of records management as related to consent searches.
- The Arizona Legislature increase DPS funding for the purpose of increasing the number of vehicles with video capability.
- DPS shall include the requirement that officers have reasonable suspicion of criminal activity, prior to any request to conduct a consent search, in all written DPS materials, orders, bulletins, instructions and directives that relate to enforcement stops.
- The training of all present and new DPS officers shall include written materials setting forth and explaining the above policy and provide explanations and examples of what constitutes "reasonable suspicion" in a vehicle-stop situation.
- As soon as practicable upon conclusion of the stop, DPS officers shall document the factors observed that resulted in a finding of reasonable suspicion for seeking consent. The officer shall utilize a form that includes a minimum of 10 factors and attach it to DPS' copy of the Consent to Search form. The reasons articulated by the officer shall be reviewed by the immediate supervisor and forwarded to the DPS Records Unit for the prescribed retention period. Supervisors will receive additional training to evaluate and monitor consent searches, including the review of all submitted Consent to Search forms.
- DPS shall amend its General Order and all other related documents to reflect that consent searches may only be conducted if the target of the search signs the consent to search form or if the target is recorded by audio and or video giving consent.

Ms. Lai gave a presentation to the Board on behalf of the ACLU. Ms. Lai's presentation included the following suggestions for the continuation of the Boards work:

- Complaint Review: Ms. Lai suggested the Board review DPS' internal process for the investigation of racial profiling complaints filed by citizens. Specifically to insure that the process has the highest integrity and that the best practices are incorporated into the procedure.
- Public outreach: Ms. Lai suggested that the Board work to insure that the public was aware of the settlement agreement, policy changes within DPS and the procedure for the reviewing complaints. Furthermore, members of the public should be encouraged to report complaints or share their thoughts with DPS.
- Data analysis: Ms. Lai also stated the need to continue to study the TraCS data as well as the data being collected on the consent to search forms.
- Video cameras: Ms. Lai stated that many of the video cameras in DPS vehicles have fallen into disrepair; despite the terms of the settlement agreement which required that DPS increase the number of video cameras in patrol vehicles.

LTC Hegarty gave a presentation to the Board of behalf of DPS. LTC Hegarty stated that while many of the elements of the settlement agreement had expired, DPS was committed to continue to working with the Board. He also stated that DPS had already contracted with the University of Cincinnati to complete a fourth year of data analysis despite the fact that it was not required by the settlement agreement. LTC Hegarty also stated that the DPS had complied and fully implemented three of the four recommendations that the Board had made on December 19, 2008. He noted that DPS was still in the process of amending the General Order to require reasonable suspension prior to a search.

In addressing budgetary concerns, LTC Hegarty assured the Board that it would have no effect on DPS commitment to fulfilling its obligations of the settlement agreement. Unfortunately budget restrictions had limited the maintenance and addition of cameras in patrol vehicles. LTC Hegarty indicated that he did not know how many working video cameras currently were in operation or the percentage of cameras

in operation when the board began its work. LTC Hegarty also commented that while DPS does collect data on the new consent to search form, the information is not stored electronically.

Chairman Hannah stated that the use of cameras was a mutually beneficial, relevant and effective tool in examining racial profiling complaints.

Mr. Luck shared some of his experiences working in the field with various law enforcement entities and stated that all the patrol vehicles he had ridden in had working cameras.

Mr. Hannah commended DPS for the hard work and their efforts to go above and beyond the requirements of the settlement agreement but suggested that the board may want to look into ways to help DPS acquire and maintain additional cameras.

5. REVIEW OF SUBCOMMITTEES

Dr. Fernandez presented on the work of the Internal Review subcommittee. Dr. Fernandez stated that the majority of the subcommittee's work was focused on consent searches and the collection of data when a consent search is performed.

Mr. Cabou presented on the work of the Best Practices subcommittee. Mr. Cabou stated that his committee also focused on the consent search mechanisms.

Chairman Hannah suggested that the board review the previous meeting minutes prior to making a decision on the activation, creation or elimination of any of the subcommittees.

Mr. Luck commented that based on his experience public relations was an important component of the Boards work and he was willing to work on a community relations component for the Board

Mr. Hannah pointed out that the objective of the Board, as reflected in the settlement agreement, is not to narrow or reduce racial profiling, but to eliminate racial profiling. Furthermore the Board is charged with insuring that the terms of the settlement agreement are adhered to as well to evaluate DPS procedures.

Ms. Evans made the following comments/questions:

- “Outreach does need to be done regarding the settlement, quite frankly I did not know there had been a settlement agreement until I was contacted to be on this Board. By outreach I do not mean a couple of PSAs [public service announcement]...I mean there needs to be some effective outreach done at grass root level within the communities to ensure that people understand that there has been a settlement agreement, what the settlement is and how they can access different parts of the settlement. I think it needs to be done in more than one language. It needs to be done in English, Spanish, Navajo and Hopi and I'm sure there is ways we can get this information printed.”
- “I am very disappointed to hear that there were timelines on this settlement. I think it is very cool that DPS and everyone is working together in a cohesive manner. But its been my experience as administrations come and go and people get elected and not elected sometimes the vibe, the feeling and the partnership can get eroded. I just wanted to mention that I was disappointed to hear about the timelines. I think it is great that the current administration is continuing to assure that the efforts that were outlined in the settlement move forward, but in order for them to have longevity...it needs to be written in to an executive order.”
- “With regards to the video cameras, I think the video cameras are very important because they help not only the individuals who are being stopped but also the officers. I know in Flagstaff video cameras are very necessary sometimes when you stop people whose interaction your not

sure what is going on. So I really think that this board needs to look at that and make some suggestions in regards to the video cameras. I am very curious to see why we did not have a benchmark of how many video cameras that we had that were working and how many we have now. Because it is kind of hard to tell somebody to make a conscious effort to improve if you don't have a baseline as to where they started from."

- "Data analysis is very important. Its kind of troubling to me that we are having data collected in the field on a piece of paper that goes into a box or file cabinet somewhere and you can not really have access to it."
- "In Coconino County this was a big deal. And the questions I have are coming very specifically from the residence that live in my city that I support who knew I was coming down here for this. I feel that a lot of this stems from issues that were happening on I-40. And so I am wondering if there could be a meeting, it seems like there was a meeting maybe I missed it, in Coconino County. That really comes back and says this is what is going on, this is what this board is doing, and these were the settlements and whatnot. Again, that is going to have to have some translators because I think it is important to do it in more than one language to be truly effective."
- Ms. Evans asked LTC Hegarty, "How many DPS officers do you have? How many are bi-lingual? And what is the ethnic breakdown of those officers?"
- Ms. Evans asked Ms. Lai, "Currently there is legislation that is being proposed that deals with our undocumented population, I am trying to figure out if the ACLU has an opinion as to how that is going to effect the terms of the settlement agreement, if at all?"
"This was something that I had a lot of questions about at City Council last week. A group approached us to take a vocal stand on this. And basically when you stop a car asking people whether or not they are documented or not, asking the passengers if they are documented or not. So I am trying to figure out if the ACLU is even looked at that or whether not they think that if that should pass if it would have some type of effect in regards to racial profiling and the settlement."

Ms. Lai stated that the legislation (SB1070) was a separate issue and that the Board and the settlement agreement is primarily concerned with racial profiling. Regardless of what State Legislation or State Statute officers are enforcing in the field; race cannot be a consideration or the reason for initiating an investigation or traffic stop. The legislation may increase complaints but does not change the obligation of peace officers or the mission of this board.

Mr. Cabou commented that he did not believe that pending legislation was within the scope of the Board. Furthermore, due to the fact that this is a public board that represents a compromise in litigation it would be inappropriate for the Board or Board members to comment on pending legislation.

Chairman Hannah questioned when might be the appropriate time to comment on the legislation. If the Board waits until the legislation becomes law might it be too late to act effectively.

Mr. Luck concurred with Mr. Cabou's statement and reiterated that the goal of the board was to eliminate all forms of racial profiling regardless of what laws were being enforced.

Dr. Fernandez made the following requests of DPS:

- A general presentation on the STOP data that was collected during 2008.
- A timeline as to when the General Order will be changed, and a copy of the amended General Order.
- Benchmark data on the number of video cameras in patrol cars.

- How many consent to search forms (raw data) and whether it would be possible to examine the data.

Dr. Fernandez offered to examine, in collaboration with DPS, the consent to search form data.

Ms. Evans mentioned the need for public outreach throughout the state.

Mr. Cabou asked if DPS and the ACLU could collaborate on a joint report on the status of the compliance of the settlement agreement.

Ms. Lai suggested a joint report on areas of open enquiries.

Mr. Luck mentioned that he had previously worked with TV and radio stations on PSA and was willing to use that expertise to help the Board utilize this service.

Mr. Hannah tabled action on the agenda item until next meeting.

6. FUTURE MEETING DATE

The board discussed future meeting dates. The board set the next meeting of the Board for Thursday, May 20, 2010 at 10:00am.

7. CALL TO THE PUBLIC

No public comment.

8. CALL TO ADJOURN

Chairman Hannah adjourned the meeting at approximately 3:40p.m.